

## Exhibit "A"

May 16, 2005

Mayor & City Council  
County-City Building  
Lincoln, Nebraska 68508

RE: Report of Claims Against the City of Lincoln for May 1 through May 15, 2005

Dear Mayor & Council:

The following is a report of claims against the City of Lincoln which have been disposed of, or are pending, for the period of May 1 through May 15, 2005. This report will describe the claims and the dispositions or status of these claims.

### **ALLOWED/SETTLED CLAIMS:**

**Michelle Stiles and Justin Sitzmann** filed a claim during the month of March, 2005, in the amount of \$4,051.24 for damage incurred to their vehicle when it was struck by a City snow plow. This claim has been **settled** by the Risk Management Office in the amount of \$2,200.00.

**State Farm Insurance (Claim No. 27-7494-351/ Maria Ning, Insured)** filed a subrogation claim during the month of March, 2005, in an unspecified amount for damage incurred to insured's vehicle when it was struck by a City Library vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$298.53.

**Gaylen Bartling** filed a claim during the month of April, 2005, in the amount of \$713.00 for damages incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **allowed** in the amount of \$713.00.

**Lorenzo Ybarra Jr. and Diosdada Ybarra** filed a claim during the month of April, 2005, in the amount of \$22,386.53 for damages incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **settled** in the amount of \$9,837.33.

**Molly Malmgren** filed a claim during the month of April, 2005, in the amount of \$300.00 for reimbursement of improper registration fines. This claim has been reviewed by this office and has been **settled** in the amount of \$200.00.

**Teresa Baregi** filed a claim during the month of May, 2005, in the amount of \$200.05 for damage incurred to window of her vehicle when it was struck by a rock at the site of a Parks Department weed trimming project. This claim has been reviewed by this office and has been **allowed** in the amount of \$200.05.

**Kory Jon McCracken** filed a claim during the month of May, 2005, in the amount of \$187.50 for damage incurred to vehicle when it was struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$187.50.



**DENIED CLAIMS:**

**David A. Fricke** filed a claim during the month of April, 2005, in the amount of \$56.23 for damage incurred to sprinkler system as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

**Farmers Insurance Group (Claim No. 100632390/Richard Hyde, Insured)** filed a subrogation claim during the month of May, 2005, in the amount of \$3,209.99 for damage incurred to their insured's vehicle as the result of an accident involving a Lincoln police vehicle. This claim has been reviewed by this office and has been **denied**.

**Beri Hershberger** filed a claim during the month of May, 2005, in the amount of \$7,175.35 for damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim has been reviewed by this office and has been **denied**.

**Teresa Cowles** filed a claim during the month of May, 2005, in the amount of \$488.99 for damage incurred to door of rental property as the result of actions taken by Lincoln police who were responding to a domestic disturbance. This claim has been reviewed by this office and has been **denied**.

**LITIGATION DISPOSITIONS:**

**Jeffrey Meyers** filed a claim during the month of July, 2003, in the amount of \$113,121.20 for damages incurred when the tire of the bicycle he was riding fell into a crevice in the street ejecting him from the bicycle. This claim was reviewed by this office and denial of this claim was approved by the City Council on October 27, 2003. Counsel for claimant filed suit in the Lancaster County District Court on January 27, 2004. This case was **dismissed** by the Court on April 20, 2005, for lack of prosecution.

**Patricia and James Dodson** filed a claim during the month of March, 2002, on behalf of their minor daughter, Jean Dodson, who was playing keyboard with her high school pep band at State basketball tournaments at Pershing Auditorium, when she allegedly received an electrical shock while adjusting an amplifier which was connected to an extension cord supplied by Pershing Auditorium. Claimants alleged that the extension cord was faulty. This claim was referred to the insurer for Pershing Auditorium. Claimants withdrew their claim on January 21, 2003. A petition was filed in the Lancaster County District Court on January 30, 2003, naming the City of Lincoln and Southern Valley School District as Defendants. Plaintiffs are praying for special damages in the amount of \$29,478.26 for medical expenses incurred to date, future medical expenses, temporary and permanent disability, pain and suffering to date and likely to be suffered in the future and loss of future earning capacity. This case has been **settled** in the amount of \$212,000 (the School District paid \$50,000 and the insurer for Pershing Auditorium paid \$162,000).

**PENDING CLAIMS:**

**County of Lancaster** filed a claim during the month of October, 2001, for medical expenses incurred as the result of an arrest by Lincoln police of an individual who was taken to the hospital for treatment of injuries allegedly incurred during his arrest. The County alleges that they inadvertently paid for part of the medical expenses. This claim is under review and is **pending**.

**Awards Unlimited** filed a claim during the month of December, 2003, in the amount of \$23,939.63 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Scott Cather** filed a claim during the month of December, 2003, in an unspecified amount for damage incurred to mailbox when it was struck by a StarTran bus. This claim is under review and is **pending**.

**State Farm Insurance Company (Richard D. Scholl, Insured)** filed a subrogation claim during the month of January, 2004, for expenses incurred as the result of a motor vehicle accident involving a vehicle driven by Tammy Scholl and a Lincoln police vehicle. **Tammy J. Scholl** filed a claim during the month of August, 2004, in an unspecified amount for injuries incurred as the result of the accident with the police vehicle. These claims are under review and **pending**.

**Randall Heiliger** filed a claim during the month of February, 2004, in the amount of \$1,200.79 for damage incurred to his vehicle as the result of an accident involving a City snowplow. This claim is under review and is **pending**.

**Deanna Zaffke** filed a claim during the month of March, 2004, in an unspecified amount for damage incurred to the windshield of her vehicle as the result of debris from a City mower. This claim is under review and is **pending**.

**James P. Ihrig** filed a claim during the month of June, 2004, in an unspecified amount for injury incurred when claimant fell as the result of an alleged defect in the street. This claim is under review and is **pending**.

**Raymond Phillips** filed a claim during the month of June, 2004, in the amount of \$30,000 for damages incurred as the result of a motor vehicle accident involving a vehicle driven by a Health Department employee. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$1,680.00. The personal injury portion of this claim remains **pending**. **American Family Insurance Group** filed a subrogation claim during the month of August, 2004, in an unspecified amount for medical expenses paid on behalf of its insured, Raymond Phillips. The subrogation claim is **pending**.

**John Kentopp** filed a claim during the month of July, 2004, in an unspecified amount. Claimant alleges that his bicycle was stolen after he was arrested at a City park by a Lincoln police officer. Claimant alleges that police officer did not allow him to secure his bicycle. This claim is under review and is **pending**.

**Nicholas Starr Becker** filed a claim during the month of August, 2004, in the amount of \$100,000 for alleged injury incurred during claimant's arrest by Lincoln police. This claim is under review and is **pending**.

**Prairie Homebuilders, Inc.** filed a claim during the month of September, 2004, in the amount of \$105.00 for property damage incurred as the result of a rock thrown from a City mower. This claim is under review and is **pending**.

**Fred Fleming** filed a claim during the month of September, 2004, in an unspecified amount for damage incurred to his driveway as the result of a water main break. This claim is under review and is **pending**.

**Jeanette Harris** filed a claim during the month of November, 2004, in the amount of \$25,000 for damages incurred as the result of a motor vehicle accident involving a Public Works vehicle. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$2,747.08. The personal injury portion of this claim is **pending**.

**Carl J. Metz** filed a claim during the month of November, 2004, in the amount of \$1,078.65 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Brainard HVAC, Inc.** filed a claim during the month of January, 2005, in the amount of \$25,526.26 for damages incurred as the result of an accident involving a StarTran bus. This claim is under review and is **pending**.

**Travis Kimathi** filed a claim during the month of January, 2005, in an unspecified amount for alleged injury incurred as the result of an accident involving a Fire Department vehicle. **Abayomi Cousins**, who was a passenger in the vehicle driven by Mr. Kimathi, has filed a claim for medical expenses incurred as a result of the accident. These claims are under review and are **pending**.

**Kim Roehrs-Lary** filed a claim during the month of January, 2005, in the amount of \$100,000 for injury incurred when claimant allegedly fell in a hole located in alley behind Bethany Christian Church. This claim is under review and is **pending**.

**Sheryl Theriault** filed a claim during the month of January, 2005, in an unspecified amount for damages incurred as the result of an accident involving a StarTran bus. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$7,782.84. The personal injury portion of this claim is **pending**.

**Kenneth Walton/Walton Construction** filed a claim during the month of February, 2005, in the amount of \$3,636.31 for damage incurred to vehicle as the result of an accident involving a City vehicle. The property damage claim has been settled by the Risk Management Office in the amount of \$3,575.96. The personal injury claim of Kenneth Walton is **pending**.

**Patricia Giese** filed a claim during the month of February, 2005, in the amount of \$668.74 for damage incurred to her vehicle as the result of an accident involving a Public Works vehicle. This claim is under review and is **pending**.

**Melinda Nicholson** filed a claim during the month of February, 2005, in an unspecified amount for alleged injury incurred as the result of fall on a StarTran bus. This claim is under review and is **pending**.

**Nebraska Petroleum Marketers & Convenience Store Association, Inc.** filed a claim during the month of March, 2005, in the amount of \$17,833.05 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Russ Ninemire** filed a claim during the month of March, 2005, in the amount of \$335.95 for medical expense incurred as the result of an injury that occurred when claimant fell on steps at Centennial Mall. This claim is under review and is **pending**.

**Virginia Witulski** filed a claim during the month of March, 2005, in the amount of \$1,179.18 for expenses incurred for the repair of the sewer connection to her residence, which claimant alleges was damaged as the result of a sanitary sewer main repair project. This claim is under review and is **pending**.

**Cinda S. Walters** filed a claim during the month of March, 2005, in the amount of \$1,453.03 for damage incurred when water pipe broke during the installation of a water meter. This claim is under review and is **pending**.

**Judith Troutman** filed a claim during the month of April, 2005, in an unspecified amount for expenses incurred for repair of sewer line. This claim is under review and is **pending**.

**Michael D. Hansen** filed a claim during the month of April, 2005, in the amount of \$6,000 for damage to basement foundation wall and carpeting allegedly incurred when water from a broken water pipe froze causing pressure on the basement foundation wall. This claim is under review and is **pending**.

**Cynthia Kopycinski** filed a claim during the month of April, 2005, in an unspecified amount for alleged injury incurred when claimant was a passenger in a vehicle that was struck by a Lincoln police vehicle. This claim is under review and is **pending**.

**Steven and Lindsay Wittenhagen** filed a claim during the month of May, 2005, in the amount of \$3,083.07 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Kevin Sturzeneger** filed a claim during the month of May, 2005, in the amount of \$915.95 for damage incurred to his vehicle when it was struck by a vehicle driven by a Lincoln police officer. This claim is under review and is **pending**.

**Dixie Hartshorn** filed a claim during the month of May, 2005, in the amount of \$316.00 for medical expenses incurred as the result of a fall at the Northeast Senior Center. This claim is under review and is **pending**.

**Wendy Jones and Rick Heath** filed a claim during the month of May, 2005, in the amount of \$15,000 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

#### **PENDING TORT LITIGATION:**

**Jason Blair** filed a claim during the month of December, 2000, for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim was reviewed by this office and denial of this claim was approved by the City Council on September 17, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on September 26, 2001. Plaintiff prays for judgment in the amount of \$10,875.23, general damages, and costs of action. Litigation is **pending**.

**Robert Blankenship** filed a claim during the month of December, 2000, for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim was reviewed by this office and denial of this claim was approved by the City Council on September 17, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on December 20, 2001. Litigation is **pending**.

**Sandra Mueller** filed a claim during the month of January, 2003, in the amount of \$650,000 for alleged damages incurred as the result of an alleged incident involving a vehicle operated by a Lincoln Electric System employee. Sandra Mueller's husband, **Duane Mueller**, has filed a claim in the amount of \$250,000 for alleged damages incurred as a result of the alleged incident. These claims were referred to counsel for Lincoln Electric System. Counsel for the Muellers filed a petition in the Lancaster County District Court on August 5, 2003. Litigation is **pending**.

**James Blake** filed a claim during the month of March, 2002, in the amount of \$10,139.77 for injury incurred when claimant fell into a water meter pit. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 29, 2002. Counsel for claimant has filed suit in the Lancaster County District Court naming Kwik Shop, Inc., Lincoln Lease Partners, and the City of Lincoln as Defendants. Litigation is **pending**.

**Suzanne Cain** filed a claim during the month of July, 2003, in the amount of \$500,000 for injury allegedly incurred as the result of a trip and fall on sidewalk. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 2, 2004. **American International Recovery, Inc. (Omni Behavioral Health, Insured)** filed a subrogation claim during the month of April, 2003, for workers compensation benefits paid on behalf of the insured's employee, Suzanne Cain, as a result of her trip and fall accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 23, 2004. Counsel for Suzanne Cain filed suit in the Lancaster County District Court on March 10,

2004, naming Gold's Limited Partnership and City of Lincoln, Nebraska as Defendants and Omni Behavioral Health, Inc. and American International Recovery, Inc. as Third-Party Defendants. Litigation is **pending**.

**Neil and April Kringle and Neil and April Kringle on behalf of their minor child, Blake Kringle**, filed a claim during the month of May, 2002, in the amount of \$1,000,000 for damages allegedly incurred when Blake Kringle fell off of his bicycle and into a culvert. This claim was reviewed by this office and denial of this claim was approved by the City Council on May 12, 2003. Counsel for the Kringles filed suit in the Lancaster County District Court on March 12, 2004. Litigation is **pending**.

**Jeremy Tumbleson** filed a claim during the month of March, 2003, in the amount of \$849.30 for damage incurred to his vehicle as the result of an accident involving a City snow plow. This claim was reviewed by the Risk Management Office and denial of this claim was approved by the City Council on April 21, 2003. Counsel for Mr. Tumbleson filed suit in the Lancaster County Court on May 21, 2004. Litigation is **pending**.

**Ricky Austin** filed a claim during the month of December, 2003, in the amount of \$500,000 for alleged injury incurred while claimant was in police custody in the back seat of a police vehicle when it was rear-ended by another police vehicle. This claim was withdrawn by counsel for the claimant on June 8, 2004, and suit was filed in the Lancaster County District Court on June 11, 2004. Litigation is **pending**.

**Barbara and Arthur Poppe** filed a claim during the month of November, 2003, in the amount of \$1,000,000 in connection with the death of their daughter, Heather Poppe, as the result of a motor vehicle accident involving a vehicle that was driven by a Robin Siefker. Claimants allege that Lincoln police had been notified that Mr. Siefker was likely to be a danger to himself or others, and therefore, claimants allege that Mr. Siefker should have been in police custody at the time of the accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on December 5, 2003. Suit was filed in the Lancaster County District Court on November 24, 2004. On February 14, 2005, the Court sustained the City of Lincoln's motion to dismiss. Plaintiff has appealed. Litigation is **pending**.

**Allied Insurance (Claim No. 26E29478/Allan Albers, Insured)** filed a claim during the month of March, 2004, in the amount of \$1,685.50 for damage incurred to insured's vehicle as the result of an accident involving a City street sweeper. This claim was reviewed by this office and denial of this claim was approved by the City Council on December 6, 2004. Allan Albers filed suit in the Lancaster County Court on February 28, 2005. Litigation is **pending**.

**Donna Lilly and Michael Lilly** filed a claim during the month of September, 2004, against the City of Lincoln, Lancaster County, and the Public Building Commission in the amount of \$1,000,000 for alleged damages incurred as the result of injuries Donna Lilly sustained when she allegedly slipped and fell on the steps of the County/City Building, which claimant alleges were ice and snow-covered. The claim against the City of Lincoln was reviewed by this office and denial was approved by the City Council on September 27, 2004. Counsel for Donna and Michael Lilly filed suit in the Lancaster County District Court on March 23, 2005, naming the Public Building Commission, Lancaster County, and the City of Lincoln as Defendants. Plaintiffs are seeking special damages in the amount of \$34,000 and general damages. Litigation is **pending**.

**Roberto Mancilla, Rubia Menendez, and David Mancilla Menendez** filed a claim during the month of May, 2004, in an unspecified amount for damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. Counsel for claimants filed suit in the Lancaster County District Court on April 28, 2005, naming Lincoln Police Officer Champoux and the City of Lincoln as Defendants. Plaintiffs are seeking special damages in the amount of \$21,872.55, future medical expenses, and general damages for pain and suffering. Litigation is **pending**.

Respectfully submitted,

James D. Faimon  
Assistant City Attorney

JDF/skb  
c: Risk Management